

1 UNITED STATES DISTRICT COURT
2 DISTRICT OF NEVADA

3 ANTHONY BROOKS,

4 Plaintiff

5 v.

6 NEVADA DEPARTMENT OF
7 CORRECTIONS, et. al.,

8 Defendants

Case No.: 3:19-cv-00623-MMD-WGC

**Report & Recommendation of
United States Magistrate Judge**

9 This Report and Recommendation is made to the Honorable Miranda M. Du, United
10 States District Judge. The action was referred to the undersigned Magistrate Judge pursuant to 28
11 U.S.C. § 636(b)(1)(B) and the Local Rules of Practice, LR 1B 1-4.

12 On April 3, 2020, the court granted Plaintiff's inmate IFP application, requiring Plaintiff
13 to pay an initial partial filing fee of \$5.25, and thereafter, whenever his prison account exceeds
14 \$10, to make monthly payments in the amount of 20 percent of the preceding month's income
15 credited to his account until the \$350 filing fee is paid. In addition, the court screened Plaintiff's
16 amended complaint, and dismissed it with leave to amend. Plaintiff was given 30 days to file a
17 second amended complaint correcting the deficiencies noted in the screening order. He was
18 advised that if he failed to do so, his action may be dismissed. He was also advised that he is still
19 required to pay the initial partial filing fee and subsequent payments until the \$350 filing fee is
20 paid *even if his action is dismissed or is otherwise unsuccessful*. (ECF No. 16.)

21 Plaintiff failed to file a second amended complaint; therefore, it is recommended that this
22 action be dismissed with prejudice.
23

RECOMMENDATION


IT IS HEREBY RECOMMENDED that the District Judge enter an order **DISMISSING** this action **WITH PREJUDICE**. Plaintiff is still required to pay the initial partial filing fee and monthly payments as stated in the screening order until the \$350 filing fee is paid.

The Plaintiff should be aware of the following:

1. That he may file, pursuant to 28 U.S.C. § 636(b)(1)(C), specific written objections to this Report and Recommendation within fourteen days of being served with a copy of the Report and Recommendation. These objections should be titled "Objections to Magistrate Judge's Report and Recommendation" and should be accompanied by points and authorities for consideration by the district judge.

2. That this Report and Recommendation is not an appealable order and that any notice of appeal pursuant to Rule 4(a)(1) of the Federal Rules of Appellate Procedure should not be filed until entry of judgment by the district court.

Dated: May 11, 2020



William G. Cobb
United States Magistrate Judge